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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,460	12/14/2001	Michael Gauselmann	ATR-M-12238-1P US	1710

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PATENT LAW GROUP LLP
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SAN JOSE, CA 95134

EXAMINER

NGUYEN, DAT

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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06/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/022,460

Applicant(s)

GAUSELMANN, MICHAEL

Examiner

Dat T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 11, 13-18, 20, 22, 24-28, 33, 35-39, 41 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11, 13-18, 20, 22, 24-28, 33, 35-39, 41 and 43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/14/2007 has been entered.

Response to Amendment

This office action is responsive to the amendments filed on 02/14/2007 in which applicant amends claims 1, 11, 24 and 33 and responds to claim rejections. Claims 1-6, 11, 13-18, 20, 22, 24-28, 33, 35-39, 41 and 43 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 13-15, 18, 20, 24-28, 35, 36, 39 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Halloran (US 6,439,993 B1).

Regarding claims 1 and 24, O'Halloran teaches a game which selects a combination of symbols in a matrix wherein the selected symbols include at least one special symbol (1:30-44). Upon the display of said special symbol, the device further converts at least one different symbol from the special symbol as a result of the display of the special symbol (2:55-67). The process of converting comprises changing all symbols on a pay line at the same time to the left of said special symbol on the same pay line, to the left most symbol on said payline or converting all symbols on said pay line at the same time to the right of said special symbol, on the same pay line, to a right most symbol on said payline (figs 4a-f and 5a-z and the detailed description thereof, special attention is directed to figures 5g and 5q for the left and right conversions). Regarding converting all symbols at the same time, O'Halloran is said to expand the symbols prior to assessing the pay line for a prize, therefore it can be interpreted that the conversion of the symbols is at the same time. Furthermore, regarding the special symbol being different from the subsequent symbols being converted, the first special symbol and the subsequent symbols are said to act in the manner of a wild card as is well known in the art, however the first special symbol also acts as a trigger symbol which O'Halloran specifically labels with a distinct feature number (30) from the subsequent wild symbols labeled (31) therefore, said special trigger symbol (30) is considered different than the subsequent converted wild symbols since their appearance does not trigger the conversion of other symbols.

Regarding claim 2, further comprising displaying said matrix (fig. 1).

Regarding claim 3 and 25, further comprising converting displayed symbols in said matrix to different symbols due to said at least one special symbol being selected for said matrix (see discussion of claim 1 above).

Regarding claim 4 and 26, wherein said selecting comprising operating a pseudo random number generator to identify symbols for said matrix. Although O'Halloran does not explicitly recite such a limitation, it has been notoriously well known in the art that video slot machines such as the one described in O'Halloran inherently uses some random number generator to generate the symbols for said matrix.

Regarding claim 5 and 27, further comprising providing an award for certain combinations of symbols across one or more pay lines (3:17-30).

Regarding claim 6 and 28, wherein the matrix is a 3 by 5 (fig. 1).

Regarding claim 13, wherein said converting comprises converting a visual image of initially selected symbols to a converted symbol (fig. 2 and 3).

Regarding claim 14 and 35, wherein said special symbol is a wild card which represents a symbol of a highest value across a payline (3:16-30) in the cited passage the highest symbol is a king which yields the highest payout for four or five occurrences of the symbol.

Regarding claim 15 and 36, further comprising determining, after said converting, whether symbols in said matrix include ea winning combination of symbols by determining symbols across at least one payline (3:16-30).

Regarding claim 18, 20, 39 and 41, wherein said converting comprises randomly selecting certain ones of said other symbols for conversion (3:13-15 also see discussion of claim 1 above).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 16, 22, 33, 37 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Halloran.

Regarding claims 11, 16, 33 and 37, the rejection as stated in the previous office action as well as the one dated 11/16/2005 is maintained and incorporated herein. Regarding the amended language of independent claims 11 and 33 wherein the conversion does not occur on any symbols not adjoining said special symbol, O'Halloran teaches converting only adjoining symbols to the special symbol in fig. 4b and 4f. O'Halloran lacks in specifically disclosing converting "all" symbols adjoining the special symbol on "multiple" paylines to special symbols identical to the special symbol. However, O'Halloran discloses in one embodiment that when the special symbol occurs, the substitution can occur on adjacent reels so as to be contiguous on a win line (Column 1, lines 48-51). O'Halloran also discloses that other variations and modification are within the scope of the invention including alternates or changes to steps disclosed therein. Hence, from the disclosure of O'Halloran a skilled artisan

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would find it obvious to convert all symbols that are adjoining the special symbol. One of ordinary skill in the art would thus find it obvious based upon the disclosure of O'Halloran to allow for a different pattern of symbols to be changed than those adjacent. One would be motivated to do so based upon the disclosure of O'Halloran that other variations are obvious as well as the fact that allowing different symbols to change based on different positions, the game would become more interesting as one would not be able to predict which symbols would be changed. O'Halloran even addresses this motivation in stating that if gambling machines lack variety, players will lose interest (Column 1, lines 20-22) thus a skilled artisan would be strongly motivated to follow this advice as well as the various embodiments dictated as obvious to allow for the special symbol to convert symbols in different places thus creating a game of variety that would not bore players.

Regarding claims 22 and 43, O'Halloran fails to explicitly disclose allowing the player to convert the special symbol into another symbol selected by the player. O'Halloran does however disclose the use of a wild symbol which in essence automatically selects the symbol most beneficial to the player for the highest payout. It is notoriously well known in the art at the time of applicant's invention to allow players the added option of replacing certain symbols with their desired symbols as a bonus feature in a game. One would be motivated to combine the player symbol selection feature with O'Halloran because it would give the player an increased sense of involvement and interactivity with the game whereby increasing player interest and

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excitement since allowing the player to choose a symbol gives the player the feel that he/she has some control over the game outcome.

Claims 17 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Halloran, in view of Mayeroff, U.S. Patent No. 6,224,483 B1. O'Halloran discloses multiple paylines but does not disclose the payline being bent. Mayeroff discloses that a popular payline format on a 3x5 slot is the Australian style, which comprises nine different paylines, including bent ones (Columns 1 and 2). Mayeroff further discloses that a plethora of winning symbol combinations is provided so that the player has a large number of various opportunities to win (Column 3, lines 9-12) [claims 17, 38]. It would have been obvious to one of ordinary skill in the art to use a bent payline configuration in the O'Halloran machine in order to provide the player with more betting opportunities, thus increasing their excitement and anticipation. Further, the usage of one payline over another is a design choice, obvious to one of ordinary skill in the art, and motivated by the wants and needs for a system as defined by its designer.

Response to Arguments

Applicant's arguments filed 02/14/2007 have been fully considered but they are not persuasive.

Applicant alleges that the examiner's purposed modification of O'Halloran in allowing for bent paylines is not obvious. The examiner respectfully disagrees and asserts that the teachings are readily available and have been well known in the art for some time. Examiner further asserts that neither of the references teaches away from

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such a combination. Furthermore, regarding the conversion of only adjoining symbols to the special symbol, the examiner feels that such a limitation would be an obvious variant of O'Halloran since O'Halloran does provide teaching for a triggering symbol which triggers the conversion of other symbols in varying patterns. It would be unreasonable to expect O'Halloran to disclose all possible combinations and types of patterns and given the disclosure of O'Halloran for the triggering symbol and different patterns, it would have made it obvious to one of ordinary skill in the art at the time of invention to provide the claimed conversion pattern of adjoining symbols. For a more detailed discussion please refer to the rejection above.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is (571) 272-2178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen



Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3714